

BEFORE THE

Federal Communications Commission

WASHINGTON, D. C. 20554

JAN 11 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Redevelopment of Spectrum to
Encourage Innovation in the
Use of New Telecommunications
Technologies

ET Docket No. 92-9

To: The Commission

**COMMENTS OF THE
PUBLIC SAFETY MICROWAVE COMMITTEE
IN RESPONSE TO
THIRD NOTICE OF PROPOSED RULEMAKING**

The Public Safety Microwave Committee ("PSMC") hereby submits the following Comments in response to the Commission's First Report and Order and Third Notice of Proposed Rulemaking in the above-captioned proceeding, FCC 92-437, released October 16, 1992.

PSMC consists of the Associated Public-Safety Communications Officers, Inc. ("APCO"), the National Association of State Telecommunications Directors ("NASTD"), the International Bridge, Tunnel & Turnpike Association ("IBTTA") and the County of Los Angeles, California. PSMC has consistently opposed any change in frequency allocations that would displace state and local government microwave

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systems in the 2 Ghz band, which are used for critical public safety communications.^{1/}

The Commission's First Report and Order (which was combined with the Third Notice) adopts (1) final rules reallocating the 2 GHz band and (2) final rules providing for the relocation of existing users of the band (subject to certain time frames to be determined in the Second Report and Order). Significantly, the Commission's final rules follow its initial proposal and expressly exempt state and local government entities from any forced relocation.^{2/} PSMC applauds this exemption, which is consistent with the long-standing statutory requirement that public safety needs be given "top priority" in radio spectrum allocation matters.^{3/}

The Commission's action to protect public safety users also accurately reflects specific Congressional intent regarding the 2 GHz band recently expressed by the United States Senate. The FY1993 Senate Appropriations Bill for the FCC and other agencies (S.3026) included an amendment offered by Senator Ernest Hollings (D-SC) that imposed restrictions on the Commission's reallocation of the 2 GHz band and provided for a detailed transition plan very

^{1/} Comments of PSMC (June 8, 1992), Reply Comments of PSMC (July 8, 1992).

^{2/} First Report and Order at ¶26 and Appendix A; 57 Fed. Reg. 49020, 49022 (October 29, 1992).

^{3/} See Comments of PSMC at 8-9 (filed June 8, 1992).

similar to that subsequently adopted by the Commission.^{4/} The Hollings amendment to the Senate Bill, as initially offered, allowed for a period of voluntary relocation of current licensees in the 2 GHz band, followed by a period of mandatory relocation of any licensee where a new user of the band agreed to bear the expenses of relocation. However, Senator Dale Bumpers (D-Ark) offered a "perfecting amendment" that excluded state and local government licenses from any mandatory relocation.^{5/} Senator Bumpers' amendment, which was accepted by Senator Hollings, the floor manager for the bill, and adopted by the Senate without objection, was intended to

preserve and codify the grandfathering of the right of State and local governments to retain the portions of the 2 GHz band of the radio spectrum which they now control for use by public safety agencies. This amendment will, in effect, write into law the current proposed rule of the Federal Communications Commission, issued last January, that provides for indefinite grandfathering of the rights of public safety users of the 2 GHz band. The FCC proposed rule would respect the priority of public safety users of the spectrum, as provided for by law.^{6/}

As a result of the Commissions's action in the First Report and Order, state and local government licensees will be permitted, but not required, to negotiate with new users of the band to relocate to higher frequencies. This rule accurately reflects Congressional intent. It provides

^{4/} 138 Cong. Rec. S10346 (July 27, 1992).

^{5/} See 138 Cong. Rec. S10350 (statement of Sen. Hollings).

^{6/} 138 Cong. Rec. S10350 (statement of Sen. Bumpers).


flexibility for new users, without disrupting critical public safety communications facilities.

Therefore, for the reasons stated above, PSMC strongly supports the Commission's decision to exclude state and local government licensees from any mandatory relocation out of the 2 GHz band.

Respectfully submitted,

PUBLIC SAFETY MICROWAVE COMMITTEE

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